

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WRIT PETITION NO.28311 of 2021

Between:

Smt.M.Syamala

...Petitioner**AND**

The State of Telangana,, rep. by its Principal Secretary, Consumer Affairs and Food and Civil Supplies Department, Hyderabad and two others

...Respondents**WRIT PETITION NO.17946 of 2023**

Between:

M.Syamala

...Petitioner**AND**

The State of Telangana,, rep. by its Principal Secretary, Consumer Affairs and Food and Civil Supplies Department, Hyderabad and four others

...Respondents**COMMON JUDGMENT PRONOUNCED ON: 23.02.2024****SUBMITTED FOR APPROVAL:****THE HON'BLE SRI JUSTICE K.SARATH**

1. Whether Reporters of Local : Yes/No
newspapers may be allowed to see
the Judgment ?
2. Whether the copies of judgment may : Yes/No
be marked to Law Reports/Journals
3. Whether Their Lordship/Ladyship : Yes/No
wish to see the fair copy of judgment

JUSTICE K.SARATH

THE HON'BLE SRI JUSTICE K.SARATH

+WRIT PETITION NO.28311 of 2021

%Dated 23.02.2024

Smt.M.Syamala

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Consumer Affairs and Food and Civil Supplies Department,
Hyderabad and four others

...Respondents

! Counsel for Petitioner in : Sri Botla Venkateswar Rao
both the petitions :

^ Counsel for official Respondents : Govt. Pleader for Civil Supplies

^ Counsel for official Respondent No.4: Ms. Devara Smitha
In WP No.17946 of 2023

< GIST :

> HEAD NOTE :

? Cases referred :

HON'BLE SRI JUSTICE K.SARATH**WRIT PETITION Nos.28311 of 2021 and 17946 of 2023****COMMON ORDER:**

Since both these writ petitions arise out of the common issue and the petitioner is one and the same they are being disposed of by this common order.

2. Heard Sri Botla Venkateswara Rao, learned Counsel for the petitioner, learned Assistant Government Pleader for Civil Supplies for the official respondent and Ms. Devara Samhitha, learned Counsel for the respondent No.4 in W.P.No.17946 of 2023.

3. W.P.No.28311 of 2021 is filed seeking to declare the Notification bearing Rc.No.C/480/2021 dated 25.10.2021 issued by the respondent No.2 calling for the applications for appointment of Fair Price Shop Dealer of Shop No.2287001 situated at Sathupalli Village, Sathupalli Mandal, Khammam District without

following the reservation policy as provided under law and without considering the applications dated 13.09.2021 and 01.11.2021 of the petitioner for continuing her as Fair Price Shop Dealer of the said shop as illegal and arbitrary.

4. This Court passed interim orders dated 12.11.2024 in W.P.No.28311 of 2021 and directed the respondents to dispose of the representations filed by the petitioner dated 13.09.2021 and 01.11.2021.

5. Thereafter, the petitioner filed W.P.No.17946 of 2023 questioning the appointment of the respondent No.4 as Fair Price Shop Dealer of Shop No.2287001 (old shop No.17001 of Ayyagaripeta Village), situated at Sathupalli Village, Sathupalli Mandal, Khammam District issued in Rc.No.C/480/2021 dated 20.05.2023 issued by the respondent No.2.

6. Learned Counsel for the petitioner submits that the petitioner was appointed as Fair Price Shop Dealer temporarily on 08.03.2011 for the shop No.17001 situated at Ayyagaripeta Village, Sathupalli Mandal and the same was renumbered as F.P.Shop No.2287001, which is reserved for women in open category and discharging her duties without any complaint. While so, pursuant to the notification dated 27.08.2021 issued by the respondent No.2, the petitioner made a representation dated 13.09.2021 to the respondent No.2 along with the required documents to allot the said shop to her. When the said notification was challenged, this Court has set aside the same directing the respondents to issue fresh notification. Thereafter, the respondent No.2 has issued the impugned notification dated 25.10.2021 and again the petitioner made a representation dated 01.11.2021 to the respondent No.2. Learned counsel submits that

without considering the said representations of the petitioner, the respondent No.2 has appointed the respondent No.4 in W.P.No.17946 of 2023 as temporary fair price shop dealer for the said shop, which is illegal and arbitrary and requested to allow both the writ petitions.

7. Learned Government Pleader for Civil Supplies submits that the appointment of Self Help Groups are purely temporary basis but not to the individuals and as the petitioner was appointed as Fair Price Shop Dealer on temporary basis, she is not entitled to claim any regular appointment. There is no provision or guidelines from the Government for appointment of self help group on permanent basis as Fair Price Shop Dealers. The Government has issued guidelines vide G.O.Ms.No.20, Consumer Affairs, Food and Civil Supplies (CS.I-CSS) Department, dated 06.09.2018 to

fill up the vacancies of fair price shop dealers in the State on regular basis subject to fulfillment or eligibility criteria and preference was given to the women groups in appointment of Fair Price Shop Dealers, but not issued any direction to continue the self help groups appointed temporarily as permanent dealers.

8. Learned Government Pleader further submits that the Commissioner has issued proceedings dated 04.09.2021 directing the appointing authorities to notify all vacancies by following roaster of reservations and thereupon notification was issued following the guidelines in G.O.Ms.No.20, Consumer Affairs, Food and Civil Supplies (CS.I-CSS) Department, dated 06.09.2018. In this regard, the representations of the petitioner was rejected for the reason that she has attained the age of 60 years which is above the age limit earmarked for appointment of Fair Price Shop

Dealer and upper age limit is 40 years and as such she is not eligible for appointment as regular Fair Price Shop Dealer.

9. Learned Government Pleader basing on the counter averments in W.P.No.17946 of 2023 further submits that the respondent No.4 was appointed as Fair Price Shop Dealer for the shop earmarked under open category (women) and the appointment was made through regular selection process as pr rules. As the petitioner is representing a Self Help Group named as Rajiv DWACRA Group, Sathupalli, she was appointed for maintenance of said Fair Price Shop during the year, 2011 on temporary basis until permanent arrangements are made. Learned Government Pleader further submits that the representations of the petitioner for appointment as regular dealer were rejected vide order dated 06.01.2023 on the ground

that she has attained the age of 60 years and requested to dismiss the writ petitions.

10. Learned Counsel for the respondent No.4 in W.P.No.17946/2023 based on the counter averments submits the respondent No.4 was selected for regular appointment as per rules after following the due procedure. The official respondents have issued appointment order to the respondent No.4 on temporary basis due to pendency of W.P.No.28311 of 2021. The respondent No.2 has issued a memo dated 06.01.2023 rejecting the representations of the petitioner as the age limit for appointment of regular Fair Price Shop Dealer is 40 years as per the notification dated 25.10.2021. After rejecting the representations of the petitioner on 06.01.2023, the appointment order was issued to the respondent No.4 on 20.05.2023 and the petitioner has no *locus standi* to question the appointment of the respondent No.4

and she is not eligible for regular appointment of Fair Price Shop Dealer and requested to dismiss the writ petition.

11. Having heard the submissions on both sides and perusal of the record, this Court is of the considered view that, initially the petitioner filed W.P.No.28311 of 2021 questioning the Notification Rc.No.C/480/2021 date 25.10.2021 calling for applications for appointment of Fair Price Shop Dealer for Shop No.2287001, situated at Sathupalli village of Sathupalli Mandal of Khammam District without following due process of law and reservation policy as provided under Law and without considering the applications dated 13.09.2021 and 01.11.2021 filed by the petitioner and to continue her as Fair Price Shop Dealer. Thereafter the petitioner filed W.P.No.17946 of 2023 questioning the proceedings of the respondent No.2,

No.C/480/2021 dated 20.05.2023, appointing the respondent No.4 as Fair Price Shop Dealer for Shop No.2287001 of Sathupalli village of Sathupalli Mandal of Khammam District.

12. A perusal of the appointment of the order dated 08.03.2011 issued to the petitioner as Fair Price Shop dealer clearly shows that the petitioner i.e M.Syamala, is the Member of Rajiv DAWCRA Group and she was temporarily appointed to discharge the functionalities of FP Shop No.17001 (New shop No.2287001) of Ayyagaripeta village of Sathupalli Mandal for the time being till the regular F.P. Shop dealer is appointed. Thereafter, the respondent No.2 issued Notification for regular appointment as per G.O.Ms.No.20, Consumer Affairs, Food and Civil Supplies (CS.I-CSS) Department, dated 06.09.2018.

13. The contention of the petitioner is that the appointment of the respondent No.4 as regular Fair Price Shop dealer, without considering the case of the petitioner, is arbitrary and illegal. But, the appointment order given to the petitioner shows that she was appointed on temporary basis and as a time gap arrangement in the capacity of Member of Rajiv DWACRA Group and not in the individual capacity. In view of the same, the petitioner has no right to seek regular appointment in pursuance to the notification. Admittedly, the petitioner has crossed 60 years of age. As the petitioner has no right or qualification or age as prescribed under Rules, the official respondents have issued rejection orders to the petitioner basing on her representation dated 06.01.2023 and the same has become final.

14. The learned Counsel for the petitioner vehemently argued that the appointment of the respondent No.4 is

temporary and she cannot be appointed in place of the petitioner as the petitioner has right to continue as FPS dealer. This court is not inclined to accept the contention of the petitioner as the petitioner has substantial right to question the regular appointment which was issued as per the Rules contemplated in G.O.Ms.No.20, Consumer Affairs, Food and Civil Supplies (CS.I-CSS) Department, dated 06.09.2018. The petitioner cannot claim to continue her as FPS dealer without any regular appointment. Moreover the respondent No.4 in W.P.No.17946 of 2023 is appointed through due procedure, therefore the petitioner has no *locus standi* to question the regular appointment of the respondent No.4.

15. In similarly situated circumstances, this Court in Writ Petition Nos.20692 of 2021 and batch dated 01.09.2021, held that:

“6. The appointment of fair price shop dealers is governed by the procedure specified by the Government and notified vide G.O.Ms.No.20, Consumer Affairs, Food and Civil Supplies (CS ICCS) Department, dated 06.09.2018. In the annexure appended to the G.O., the guidelines are notified to make appointments of fair price shop dealers. The guidelines require issuance of notification, calling for applications, holding written test, interview, selection and verification of antecedents before appointment orders are issued. The guidelines also prescribe the eligibility criteria regarding educational qualification and age limit. The guidelines also require the competent authority to follow the rule of reservation in favour of various social groups and assessment of residence etc.

7. It is not in dispute that petitioners were appointed temporarily as a stop-gap arrangement till regular appointments are made. While making their appointments the eligibility of others was not assessed, but based on the applications, straightaway they were appointed. As can be seen from the appointment order of petitioner in W.P.No.20692 of 2021, it is clear that the appointment is on temporary basis till regular selections are made and valid for specific period as mentioned therein and extended from time to time again on temporary basis, pending resorting to regular selections and appointment of fair price shop dealers in accordance with the policy notified in G.O.Ms.No.20, dated 06.09.2018. Thus, it is not something that a false hope was created in favour of the petitioners by appointing them and suddenly seeking to dispense with their services by resorting to regular recruitment. With eyes wide open, petitioners accepted the temporary appointment for a limited period, extended from time to time. Further, while appointing fair price shop dealers, the competent authority is also required to follow the rule of reservation and various fair price shop dealerships are arranged in the roaster. When petitioners were appointed, the rule of reservation was also not observed”.

(Emphasis added)

16. In the instant case also the petitioner was appointed temporarily as a stop-gap arrangement till regular appointment is made without any selection process. Thereafter the official respondents have issued notification and appointed the respondent No.4 in W.P.No.17946 of 2023 through regular process of selection in accordance with the Rules notified in G.O.Ms.No.20, Consumer Affairs, Food and Civil Supplies (CS.I-CSS) Department, dated 06.09.2018. The petitioner is continued without any qualification on temporary basis and now she cannot claim a right to continue her forever by dispensing the regular appointment and in view of the same both the writ petitions are liable to be dismissed as devoid of merits.

17. Accordingly, both the writ petitions are dismissed. There shall be no order to costs.

18. Miscellaneous applications, if any pending in these writ petitions, shall stand closed.

JUSTICE K.SARATH

Date:23.02.2024

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sj/trr***